applicant seeks the order of possession. Although it is not necessary for me to decide the point, I am of the opinion that the right of the bankrupt's wife and children to remain on the premises flows from and is tied up with the bankrupt's right to remain on the premises.

The order of the Court will therefore be that the bankrupt do deliver up vacant possession of the premises to the applicant on or before 31st October, 1962.

Application granted.

Solicitors: *Allen & Gledhill; Richard Talalla.*

YEO THIAM CHYE v. PUBLIC PROSECUTOR

[A. Cr. J. (Adams J.) September 19, 1962]

[Muar — Criminal Appeal No. 24 of 1962]

Criminal Law and Procedure — Evidence of bad character — Deposition by prosecution — Procedure after conviction.

If a person is a known bad character the proper procedure after conviction is for a police officer to go into the witness box and depose on oath that he knows from his own knowledge that the accused is of bad character and the accused must then be given an opportunity to cross-examine the police officer on that point.

CRIMINAL APPEAL.

C. Paramjothy for the appellant.

Syed Agil Barakbah (Deputy Public Prosecutor) for the respondent.

Adams J.: This was an appeal in which Mr. Paramjothy appeared for the appellant who had been sentenced to 6 months' imprisonment for having committed house trespass for the purpose of using criminal force on one of the occupants of the house, an offence punishable under section 451 of the Penal Code.

The facts are somewhat unsavoury. The complainant was at all material times a whore who was carrying on her trade at No. 115 in the back lane of Jalan Meriam, Muar. Apparently she used to be patronised by the accused two or three times a month. The accused said that she had promised to become his permanent mistress but broke all her promises. He alleged that she had cheated him and that he had lost his job as a result of her. The accused came to her room on the 12th May while she was carrying on her business and was occupied with a client. The accused made a disturbance when the client came to leave, slapped the complainant and broke a kerosene lamp, 3 glasses and some tea cups. The police arrived during the commotion.

The accused, who had no previous convictions, is a young man of 29 years of age. Apparently at the end of the case for the defence when the accused was found guilty the prosecuting officer reported that similar troubles had been happening in the area which is a notoriously unsavoury one and there had been many robberies and extortions in that area. It was apparently on this basis the learned Magistrate sentenced the accused to 6 months' imprisonment.

With very great respect there was no evidence whatsoever against the accused that he was of bad character and responsible for the robberies and extortions. If a person is a known bad character the proper procedure after conviction is for a police officer to go into the witness box and depose on oath that he knows from his own knowledge that the accused is of bad character and the accused must then be given an opportunity to cross-examine the police officer on that point.

In my opinion in a case of this nature, unsavoury though the facts may be, the accused who is a first offender could have been adequately dealt with under the provisions of section 294 of the Criminal Procedure Code. I therefore quashed the sentence of imprisonment and substituted an order that the accused be released on his entering into a bond in his own recognizance of $200 and one surety in a similar sum for a period of six months and during such period to appear and receive judgment if and when called upon and in the meantime to keep the peace and be of good behaviour. I also direct that he pay $50 compensation to the complainant.

Accused released on bond.

Solicitors: *Wong & Paramjothy.*

KAN YEOW WING v. KENG SOON MOTOR FINANCE CO.

[O. C. J. (Ong J.) September 21, 1962]

[K.L. — Civil Suit No. 136 of 1961]

Hire-purchase — Agreement — Sale and reletting on hire-purchase — Whether moneylending transaction — Moneylenders Ordinance, s.16.

Bill of Sale — Whether bill of sale void for non-registration — Bills of Sale Ordinance, 1950, s.4(1).

Moneylending — Absence of memorandum — Moneylenders Ordinance, 1951, s.16.

The principles applicable in determining whether a hire-purchase agreement is a bill of sale and therefore void for non-registration are as follows: (1) If a person deliberately, with a clear understanding of what he is doing, and with all appropriate formalities, sells his property to a finance company and then hires it back under a hire-purchase agreement, the agreement is not a bill of sale. (2) If the purpose of the transaction is to enable the hirer to dispose of the property to a customer, the courts will the more readily hold that the agreement is not a bill of sale. (3) If the hire-purchase agreement is a mere device to cloak a loan, the document is a bill of sale. (4) In considering whether the real transaction is one of loan, it is necessary to look behind the document to discover its true nature. (5) If the facts are not truly stated in the document, this is a circumstance tending to show that the document is a mere cloak. *North Central Wagon Finance Co. Ltd.* v. *Brailsford & Anor.* (3) followed.

In this case as the transaction was one of a loan on security rather than a genuine sale and reletting on hire-purchase the plaintiff was entitled to the relief prayed because there was non-registration under the Bills of Sale Ordinance and there was no memorandum of